

Presentation to
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Implementing competitive neutrality to government businesses

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What is competitive neutrality? Broad definitions

Virtanan and Valkama (*World Competition* 2009)

- Complain of lack of clarity in definition and poor theoretical underpinning of the concept
- Define it by looking at all sources of market distortion, both actual and potential- so their concept is far broader than just government/non-government competitors in a market

Competitive neutrality: state capitalism

- Issues of “state capitalism” identified as new global challenge
- Terminology of “reasserting competitive neutrality” used
- (*APCAC 2012 US Asia Business Summit; The Economist Jan 2012*)

Competitive neutrality

For the purposes of this project the meaning is quite clear:

“Significant government business activity in competition with the private sector should not have a competitive advantage by virtue of government ownership and control”

- That is, the focus is limited to one jurisdiction- we are looking at the “home market”
- “Competitive neutrality policy” is steps or mechanisms put into place to ensure that the market is “neutral” in this respect

Australia: Hilmer Review: National Competition Policy 1993

“..the most systematic distortions arise when government businesses participate in competitive markets” (Hilmer)

- Concluded that this should be dealt with in a *“systematic, nationally consistent manner”*
- Introduction of competitive neutrality to government businesses
- See paper at <http://archive.unctad.org/templates/page.asp?intItemID=6128&lang=1>

Shortcomings of government businesses

- Poor productivity and pricing practices
- Lack of requirement to recover costs or price efficiently
- Non- accountability of managers
- Conferral of monopoly rights

Answer: commercialisation, privatisation, and competitive tendering

Competitive advantages of government businesses

- immunity from taxes , charges and regulatory requirements
- explicit or implicit government guarantees on debts
- concessional interest rates on loans
- no accounting for depreciation expenses or achieving commercial rate of return
- effective immunity from bankruptcy
- pricing policies which do not take full account of production costs

Competitive disadvantages of government businesses

- greater accountability obligations, such as administrative review and reporting requirements
- community service obligations
- reduced managerial autonomy
- requirements to comply with government policy on wages, employment and industrial relations
- other policy wishes of government



Net competitive advantage/disadvantage

Sometimes difficult to determine, but where government businesses have a net competitive advantage, the problem is that they may be able to price below more efficient private rivals

All Australian governments agreed on a co-operative CN model

- Neutralise net competitive advantages of Government business
- corporatise businesses supplying services directly to the public
- corporatisation or pricing directions where services supplied to other government bodies
- NCC established to oversee process
- GTEs have combined assets of more than \$174b and generate \$55b in revenue annually

Measurement of progress in Australia

- Most jurisdictions have full cost attribution for their significant business activities
- Slow policy implementation in some industries
- Complaints handling could be improved (2003 NCC)
- Progress mixed: all states and territories had corporatised major government businesses and other significant businesses adopted CN principles
- Scope for improving coverage and operation of complaints processes
- Commitment to better governance required
- Rate of return still below commercial rates for most government businesses

Research project agenda: relevant questions for the jurisdictions

- What is the nature of SOEs/ government bodies in the jurisdiction?
- Are they caught by competition law?
- Is CN addressed at all? Corporatisation? Governance? CN framework?
- Which bodies should be subject to CN?
- Advantages/disadvantages of government ownership?
- Determining net competitive advantages
- Mechanisms e.g. complaints? supervision?

Progress with research

Malaysia

Khatina Wan, May Fong Cheong

- Detailed reports have outlined the development of government businesses and categorised various of these organisations

Progress with research

China

Professor Xu Shiying

- Report with substantial historical background to the establishment and operation of SOEs in the socialist market economy
- Various categories described, indicating control, regulation and monitoring
- Extent of corporatisation
- Some progress on advantages/ disadvantages
- Relationship with AML and industry policy considered



Progress with research

Switzerland

Fabio Babey

- Confirms the relationship between the entities and the competition law

Progress with research

Pakistan

Joseph Wilson

- SOEs caught by Competition Act of 2010
- Focus in Pakistan in relation to issues of competitive neutrality is competition advocacy, which is specifically mandated in the Competition Act (s29)

2nd half of 2012

- Continued examination of questions by each jurisdiction:
 - Which bodies should a CN policy apply to ?
 - What are the advantages/ disadvantages of SOEs?
 - How might the advantages be addressed?
- Review of developments in other countries to assist with more concrete options